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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

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11 UNITED STATES OF AMERICA,) 2:06-cr-00310-HDM-PAL
12) 2:12-cv-00851-HDM
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14)
15 vs.) ORDER
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29 The government has filed a motion for an order waiving the
30 attorney-client privilege with respect to defendant's 28 U.S.C. §
31 2255 motion (#242). The defendant has not opposed the motion, and
32 the time for doing so has expired.

33 Considering the nature of the claims defendant has raised in
34 his § 2255 motion and the fact defendant has not opposed the
35 government's motion, the court finds and concludes that the
36 attorney-client privilege has been waived. *Bittaker v. Woodford*,
37 331 F.3d 715, 716 (9th Cir. 2003) ("[W]here a habeas petitioner
38 raises a claim of ineffective assistance of counsel, he waives the
39 attorney-client privilege as to all communications with his
40 allegedly ineffective lawyer."); see also *United States v. Ortland*,

1 109 F.3d 539, 543 (9th Cir. 1997). Accordingly, the government's
2 motion for order waiving the attorney-client privilege (#242) is
3 **GRANTED**. Defendant's former attorney, G. Luke Ciciliano, is not
4 prohibited by virtue of the attorney-client privilege from
5 providing testimony and affidavits responsive to the defendant's
6 ineffective assistance of counsel claims.

7 **IT IS SO ORDERED.**

8 DATED: This 9th day of August, 2012.

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10 UNITED STATES DISTRICT JUDGE
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